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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
10

11 ALEX VILLANUEVA,

12 Plaintiff,

13 v.

14 COUNTY OF LOS ANGELES,
COUNTY OF LOS ANGELES
15 SHERIFF'S DEPARTMENT, LOS
ANGELES COUNTY BOARD OF
16 SUPERVISORS, COUNTY EQUITY
OVERSIGHT PANEL, LOS
17 ANGELES COUNTY OFFICE OF
INSPECTOR GENERAL,
18 CONSTANCE KOMOROSKI,
MERCEDES CRUZ, ROBERTA
19 YANG, LAURA LECRIVAIN,
SERGIO V. ESCOBEDO, RON
20 KOPPERUD, ROBERT G. LUNA,
MAX-GUSTAF HUNTSMAN,
21 ESTHER LIM, and DOES 1 to 100,
inclusive,

22 Defendants.
23

CASE NO. 2:24-cv-04979 SVW (JCx)

**REPLY IN SUPPORT OF
DEFENDANTS' MOTION IN
LIMINE NO. 4 TO EXCLUDE
VIVIAN VILLANUEVA FROM
TESTIFYING AT TRIAL**

Date: May 26, 2025

Time: 1:30 p.m.

Crtrm.: 10A

Assigned to the Hon. Stephen V.
Wilson, Crtrm. 10A and Magistrate
Judge Jacqueline Chooljian, Crtrm. 750

Trial Date: June 3, 2025

1 **I. INTRODUCTION**

2 Plaintiff's attempt to weaponize the spousal privilege is wrong. Again faced
3 with unfavorable facts and law, Plaintiff invents a new narrative surrounding how
4 the privilege has been misused in this case. But he cannot escape the facts. Despite
5 his claims to the contrary, it is undisputed that both he *and* his wife invoked spousal
6 privilege in this case to prevent Defendants from obtaining relevant discovery. It is
7 likewise uncontroverted that the privilege has been selectively invoked such that
8 Plaintiff and Mrs. Villanueva have provided only information that they want
9 Defendants to see. And it is also uncontroverted that Mrs. Villanueva sat for
10 multiple interviews with Plaintiff's expert witnesses. Plaintiff and Mrs. Villanueva
11 cannot invoke the spousal privilege solely when it is to their advantage.

12 **II. THE COURT SHOULD EXCLUDE MRS. VILLANUEVA**

13 Defendants' Motion laid out Plaintiff's gamesmanship in detail. It discussed
14 Defendants' repeated attempts to depose Mrs. Villanueva for two months. (Mot. at
15 6:13–26.) Mrs. Villanueva pushed her deposition date without explanation, until
16 Defendants were forced to take it eight weeks late and at the end of fact discovery.
17 (*Id.*) The Motion also detailed that, although Plaintiff's counsel agreed to accept
18 service on Mrs. Villanueva's behalf, Defendants' subpoena was never provided to
19 her. (*Id.*; *see also* Tokoro Decl., Dkt. No. 100-2 ¶¶ 27–37.) Consequently, she
20 never searched for any requested documents. (Mot. at 6:13–26.)

21 One day before the close of fact discovery, Plaintiff selectively produced a
22 series of communications between himself and Mrs. Villanueva. (Mot. at 7:6–12.)
23 This was undoubtedly intentional—by waiting until the end of the discovery period,
24 Plaintiff knew that Defendants would be left with no recourse. Mrs. Villanueva then
25 invoked the spousal privilege at her deposition and prevented Defendants from
26 inquiring into topics harmful to Plaintiff's case. (*Id.* at 7:14–8:3.) This was so even
27 though Plaintiff testified that Mrs. Villanueva knows him better than anyone, and
28 has unique information about his emotional distress. (*See id.* at 6:5–11.)

1 Plaintiff's Opposition ignores all of the above, and does not address any of
2 the cases cited in Defendants' Motion. Instead, Plaintiff introduces four alternative
3 arguments—all are meritless.

4 *First*, Plaintiff contends that Plaintiff did not “control” Mrs. Villanueva's
5 invocation of the spousal privilege. (Opp. at 1:22–25.) This is a straw man. Both
6 he *and* Mrs. Villanueva invoked the spousal privilege in this case. The question is
7 not whether Plaintiff was involved in Mrs. Villanueva's invocation of the privilege,
8 but rather *how* the privilege is being selectively used by them.

9 *Second*, Plaintiff cites [Bowling v. Netflix, Inc., No. 1:22-CV-01281-TWP-](#)
10 [MJD, 2024 WL 4689003, at *5 \(S.D. Ind. Nov. 6, 2024\)](#), and contends that he is not
11 using the privilege as a sword and shield because there has been no “selective”
12 disclosure of spousal communications. (Opp. at 2:3–17.) That is simply not true.
13 Plaintiff selectively disclosed communications with his wife (i.e., text messages)
14 that he believes help his case, while refusing to produce others. The spousal
15 privilege is all or nothing—a plaintiff cannot pick and choose. Indeed, in *Bowling*,
16 the court noted that the “sword and shield” doctrine was not implicated because the
17 plaintiffs did not present evidence of *any* spousal communications being disclosed.
18 [2024 WL 4689003, at *5](#). That is the exact opposite of what happened here, where
19 Plaintiff and Mrs. Villanueva are cherry picking what they want Defendants to see.

20 *Third*, Plaintiff argues that Defendants are “not entitled” to three years' worth
21 of communications. (Opp. at 2:21–26.) Plaintiff conveniently omits that Magistrate
22 Judge Chooljian ordered Plaintiff to produce communications going back to January
23 1, 2022. (*See* Dkt. No. 86.)

24 And Plaintiff misses (or actively ignores) Defendants' point regarding the
25 importance of these text messages. Defendants are entitled to “challenge a claim for
26 emotional distress damages by offering evidence of other stressors in a plaintiff's
27 life.” *See, e.g., Elkins v. Automatic Data Processing, Inc., No. EDCV 21-606 JGB*
28 [KKx\), 2023 WL 7354621, at *5 \(C.D. Cal. Apr. 19, 2023\)](#) (citation omitted).

1 Because Plaintiff has put his emotional distress at issue, Defendants are entitled to
2 see what else was going on in Plaintiff's life that could have caused him stress.
3 Defendants are also entitled to review those text messages as evidence of *lack* of
4 emotional distress (i.e. that Plaintiff's life continued on as normal even following
5 the alleged adverse event).

6 *Fourth*, Plaintiff argues that Defendants are not prejudiced. (Opp. at 3:4–14.)
7 This is false on its face. Plaintiff repeatedly pushed Mrs. Villanueva's deposition,
8 never provided her with the subpoena, waited until the end of the discovery period
9 to produce text messages, and selectively invoked the spousal privilege to obstruct
10 her deposition. All of this was by design, and is textbook prejudice. Plaintiff should
11 not be allowed to benefit from this gamesmanship.

12 Last, Plaintiff has not disputed that Mrs. Villanueva should not be allowed to
13 testify regarding her desire to "be a Plaintiff" in this case, or about her claimed
14 emotional distress. (Mot. at 10:28–12:2.) He has conceded this issue, and Mrs.
15 Villanueva, if she is allowed to testify at all, should not be permitted to testify
16 regarding these subjects.

17 **III. CONCLUSION**


18 For the foregoing reasons and the reasons stated in Defendants' Motion, the
19 Court should preclude Mrs. Villanueva from testifying at trial.

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21 DATED: May 12, 2025

Respectfully Submitted,

MILLER BARONDESS, LLP

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23
24 By:



JASON H. TOKORO

Attorneys for Defendants